



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Supplemental

Legislative Analysis

Board of County Commissioners

November 3, 2005

9:30 AM

Commission Chamber

111 NW First Street, Suite 1030
Miami, Florida 33128
305-375-4354

**Miami-Dade County Board of County Commissioners
Office of the Commission Auditor**

Legislative Analysis

**Board of County Commissioners
Meeting Agenda**

November 3, 2005

Written analyses for the below listed items are attached for your consideration in this Legislative Analysis.

Item Number(s)

7(S)	8(J)(1)(A)

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Chief Legislative Analyst, at (305) 375-5469.

Acknowledgements--Analyses prepared by:

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LEGISLATIVE ANALYSIS

ORDINANCE PERTAINING TO ZONING REGULATION OF SIGNS AND ENFORCEMENT OF SIGN REGULATIONS; CREATING SECTIONS 33-121.28-121.31; AMENDING SECTION 8CC-10, CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE"); PROVIDING PENALTIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE [SEE ORIGINAL ITEM UNDER FILE NO. 052595]

Commissioner Katy Sorenson

I. SUMMARY

The proposed Ordinance standardizes signs along the South Miami-Dade busway corridor and incorporates amendments approved at the October 11, 2005 Infrastructure and Land Use Committee meeting.

II. PRESENT SITUATION

Currently, signs within the South Miami-Dade busway corridor comply with the permitting and enforcement of signs as dictated by §33-82-121.27, Sign Code of Miami-Dade County.

III. POLICY CHANGE AND IMPLICATIONS

The proposed Ordinance would create the following:

- Section 33-121.28
 - Defines the busway right-of-way map certified by the Clerk of the Board and maintained by the Department of Planning and Zoning
 - Defines the busway protected areas to be all property within 300 feet of the busway right-of-way;
- Section 33-121.29
 - Prohibits class C (outdoor advertising) signs in the busway protected area;
- Section 33-121.30
 - Allows for the grandfathering of existing lawfully erected non-conforming signs; and
- Section 33-121.31
 - Permits variances under conditions of hardship.

In addition, the proposed Ordinance would amend the following:

- Section 8CC-10
 - Establishes more stringent penalties for violations.

IV. ECONOMIC IMPACT

Economic impacts are expected to be minimal.

Team Metro and the Department of Planning and Zoning presently oversee the permitting and enforcing of sign regulations throughout Miami-Dade County. Any additional procedures or duties created with this ordinance would be the responsibility of those departments.

V. COMMENTS AND QUESTIONS

On October 11, 2005, the proposed Ordinance was before the Infrastructure and Land Use Committee. The committee bifurcated the item in order to consider each of the proposed sections independently. The sections establishing a review procedure that included a written determination of compliance for Class C signs within incorporated and unincorporated areas (Sections 33-82, 33-86, 33-92, 33-121.32 and 33-121.33) were denied. All other sections were approved and forwarded with a favorable recommendation to the Board of County Commissioners.

LEGISLATIVE ANALYSIS

RESOLUTION REJECTING ALL PROPOSALS FOR THE PROCUREMENT OF SMALL, LOW FLOOR TRANSIT BUSES IN RESPONSE TO REQUEST FOR PROPOSALS (RFP) NO. 407, WAIVING THE REQUIREMENTS OF SECTIONS 2-8.3 AND 2-8.4 OF THE MIAMI-DADE COUNTY CODE PERTAINING TO BID PROTESTS, AND AUTHORIZING A WAIVER OF COMPETITIVE BIDS AND NEGOTIATIONS WITH THE FOUR RESPONSIVE PROPOSERS

Miami-Dade Transit

I. SUMMARY

This resolution seeks approval for the rejection of all proposals received in conjunction with RFP No. 407 (Small Low-Floor Transit Buses).

Further, the County Manager is seeking a Waiver of Competitive Bidding in order to authorize negotiations with four (4) of the original proposers in an attempt to bring forward to the Board of County Commissioners (BCC) an Award Recommendation in the most expedient manner.

II. PRESENT SITUATION

- November 5, 2002 – Residents of Miami-Dade County approve a ½ cent Surtax for Transportation infrastructure needs known as the Peoples Transportation Plan (PTP).
 - Part of the PTP called for the expansion of the County’s Bus Fleet by approximately 635 buses.
- September 11, 2003 – BCC approves advertisement of RFP No. 407 for the procurement of 400 Small Low-Floor Buses.
 - Estimate for buses at this time was \$201,500,000.
- Seven (7) proposals were received from five (5) different companies.
 1. Bluebird Coachworks
 2. Daimler Chrysler
 3. ElDorado National
 4. Optare Group Limited (Proposal was deemed non-responsive with reference to DBE Goals)
 5. Optima Bus Corporation
- December 2004 – January 2005 – Evaluation Committee heard Oral Presentations from four (4) remaining bidders.

BCC ITEM 8(J)(1)(A)

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- March 23, 2005 – Negotiations Committee requests MDT staff review financial statements of four (4) remaining companies in accordance with the United State's Generally Accepted Accounting Principals (GAAP).
 - Bluebird Coachwork's financial statements were provided by it's parent company, the Henleys Group, PLC, and were done in accordance with the United Kingdom's GAAP.
 - **MDT found Bluebird's financial statements to be incomplete, therefore Bluebird Coachworks was not entitled to further consideration by the Negotiating Committee.**
- Optima Bus Corporation was recommended as the highest ranked proposer by the Negotiating Committee.
- August 23, 2005 – Bluebird files bid protest.
- September 21, 2005 – Hearing Examiner submits findings of fact to Clerk of the Board.
 - **The Hearing Examiner found Bluebird to be responsive and responsible.**
 - **Further, the hearing examiner found that Optima was not financially responsible, and recommended that Bluebird, ElDorado, and Diamler Chrysler be reevaluated**

III. POLICY CHANGE AND IMPLICATION

The County Manager is recommending that the BCC not accept the hearing examiner's recommendation, and that the Board authorize him to convene a five (5) person Negotiating Committee made up of Dr. Carlos Bonzon, ACM., Roosevelt Bradley, Director MDT., Mayra Bustamante C.P.A. Deputy Director MDT., as well as 2 professionals outside of County Government.

This committee will reevaluate the original submittals, as well as the initial Best and Final Offers (BAFO) proffered by the four remaining companies and make a recommendation to the BCC within 90 days of the passage of this item.

IV. ECONOMIC IMPACT

There is no quantifiable fiscal impact based on the rejection of these proposals and the re-negotiation process.

However, the original estimate of \$201,500,000 for these buses is over two (2) years old at this time. (The cost per vehicle and/or associated services may have escalated in that 2 years.)

V. COMMENTS AND QUESTIONS

Attachment 1 – Herald Article from September 24, 2005

Attachment 2 – Herald Article from August 24, 2005

BIG BUS DEAL TAKES A U-TURN

The Miami Herald - September 24, 2005

Miami-Dade County officials unfairly disqualified Blue Bird Coachworks, a prominent Georgia bus manufacturer, from competing for a highly coveted multimillion dollar contract to supply 300 new 30-foot Metrobuses, a hearing examiner has ruled.

On top of that, retired Circuit Judge Jack M. Turner recommended that county officials disqualify the apparent winner of the contract, **Optima** Bus Co. of Wichita, Kan. - citing many of the very same financial reporting shortcomings that had snarled Blue Bird's bid.

In his ruling, Turner noted that Blue Bird's bid would have come in \$12 million lower than **Optima's**. ``There was no basis for the committee to completely reject Blue Bird's proposal for alleged financial irresponsibility based upon an immaterial technical irregularity and to award the contract to **Optima** for \$12 million more," Turner wrote in a 16-page opinion signed Wednesday.

It's unclear what the unusual decision in the bid protest launched by Blue Bird will mean to the five-year, \$97.7 million contract - county officials could go forward with the **Optima** contract or throw out **Optima's** bid and reevaluate other bids they received. The most likely option: They could start from scratch on the contract.

What is clear is that the County Commission, which will ultimately decide the question is in for a high-stakes lobbying effort no matter what County Manager George Burgess recommends to commissioners. ``You've got to understand, this almost never happens," said Blue Bird's Miami-based litigator, Barry Davidson of Hunton & Williams. ``It's extremely rare to win a bid protest like this."

Optima lobbyist Miguel De Grandy strongly disagreed with the judge's reasoning for disqualifying his client on financial grounds tied to the private hedge fund that owns the bus company. De Grandy added that the \$12 million savings figure is a red herring aimed at scoring political points.

The selection committee had graded **Optima** so far ahead of Blue Bird and the other competing firms on the technical merits that constituted 70 percent of the scoring that Blue Bird still would have wound up ranked No. 2 after factoring in the pricing criteria, de Grandy said.

``Just because they're coming in at the cheapest price doesn't mean they are delivering the best bus," De Grandy said. ``There's a value - a serious value - in providing the best, most reliable bus, the one that won't break down and will remain in service."

Optima hired former state Rep. De Grandy, one of the most successful lobbyists at County Hall. Blue Bird engaged Davidson to litigate the bid protest and Ron Book to lead its lobbying effort.

De Grandy has filed a separate ethics complaint accusing Davidson of lobbying county staffers on Blue Bird's behalf without registering. Davidson says he did not need to register because he was acting as a lawyer-litigator, not a lobbyist.

Transit Director Roosevelt Bradley said that a brand new procurement process could be fast-tracked so that a selection could be delivered in 90 to 120 days rather than the year-plus it took to reach the **Optima** decision. ``I'm not saying that this is the way we're going, but if we did I think we can get it done pretty quick," Bradley said. ``We already have all the specs in place. It's a very detailed package. The industry already knows what we're looking for."

Any short-term delays in delivering new buses to the Transit fleet will not change the agency's ability to roll out new routes and improve trip frequencies - as promised when officials asked voters to approve a half-cent sales tax increase in 2002, Bradley said.

The new buses are 30-foot, low-floored, models that seat 28 and have standing room for another 21 passengers. The new generation is supposed to feature a design that will make the buses look a bit like high-speed trains.

Transit commonly runs 30-foot buses on urban circulator routes and newer lines that are building ridership.

Attachment 2 (8J1A)

LOSING MINIBUS BIDDER SEEKS DECISION REVERSAL

The Miami Herald - August 24, 2005

A bus manufacturer Tuesday accused Miami-Dade County officials of unfairly eliminating it at the eleventh hour from competing for a five-year contract worth nearly \$100 million to supply 300 new 30-foot minibuses to the local transit agency.

In a formal bid protest filed late Tuesday, Blue Bird Coachworks seeks to reverse a county staff recommendation that commissioners ratify a five-year, \$97.7 million deal with the No. 1-ranked firm, **Optima** Bus Corp. of Wichita, Kan.

Records indicate that Blue Bird of Fort Valley, Ga., had offered to deliver the same state-of-the-art minibuses, spare parts, training for mechanics and other services for \$11.9 million less than **Optima**.

But a five-person selection committee, which included two high-ranking transit agency officials, never looked at Blue Bird's sealed bid, because the firm was eliminated in April for failing to submit complete financial statements.